

## REMARKS

Applicant respectfully traverses the § 102(b) rejection of claims 1 and 3-6 over Auer, and the § 103(a) rejection of claims 1, and 3-8 over Ito.

In the present invention, a catalyst layer includes a plurality of Pt-Ru alloy particles. At least one of the particles has an oxygen content of 4.4 wt. % or lower. The oxygen is included in the particle. The oxygen content of the Pt-Ru alloy particle is strictly restricted because Pt-Ru alloy has a significantly high affinity for oxygen. Moreover, the catalyst layer is heated under a reducing atmosphere.

In contrast, Ito discloses oxygen chemically bonded to the carbon carrier independent of Pt particles in the catalyst layer. The oxygen content in Ito relied on by the Examiner is oxygen bonded to carbon in the carrier, not oxygen included in the catalyst particle.

Moreover, although Ito discloses that Pt may be alloyed with Ru, Ito fails to disclose or suggest an oxygen content lower than 4.4 wt. %, nor does Ito suggest the need to reduce the oxygen content of Pt-Ru alloy due to its high affinity for oxygen. Finally, Ito does not disclose a step of heating Pt-Ru particles in a reducing atmosphere.

In summary, Ito neither recognizes the problem, nor discloses the present solution to that problem.

Auer also does not disclose an oxygen content reducing step performed with the catalyst layer in a reducing atmosphere state, as recited in amended claims 1 and 3, so Auer cannot anticipate the claims.

For all of the above reasons, plus the reasons stated in the previous Amendment, Applicant submits that neither the cited prior art, nor any possible combination thereof, anticipates or suggests the claims of the present invention.

Applicant submits that the amended claims are distinguishable over the cited reference and requests reconsideration and issuance of a prompt Notice of Allowance. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

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By: 

James W. Edmondson  
Reg. No. 33,871